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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/118,833	07/20/1998	TOSHIRO NISHI	0965-0232P-S	9403

2292 7590 11/29/2002

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EXAMINER

CREPEAU, JONATHAN

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 11/29/2002

27

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/118,833

Applicant(s)

NISHI ET AL.

Examiner

Jonathan S. Crepeau

Art Unit

1745

--Th MAILING DATE of this communication appears on th cov r sh et with th correspond nce address --

THE REPLY FILED 18 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 4-28

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: it is not believed to be specific enough in comparing the process of the prior art (Soma) and the claimed process. First, the declaration does not appear to state that the materials being compared have the same chemical composition. This would be required for a meaningful comparison. Second, the prior art process (i.e., plasma spraying) described in the declaration does not include all the steps that the prior art (Soma) includes. Specifically, Soma discloses a "heat treatment" step at at least 1250 degrees C after the step of plasma spraying (col. 2, lines 47-57 and col. 6, lines 44-50 of Soma). The declaration does not appear to account for this additional heat treatment step. This step is believed to be critical to the comparison of the process of Soma and the claimed process, as it is essentially a "sintering" step which densifies the interconnector (see col. 2, lines 47-57 of Soma). Therefore, the prior art process shown in the declaration is believed to be incomplete.

In addition, in the event a subsequent declaration was filed that was sufficient to overcome the rejection of claims 4-11 and 24-28 over Soma, such a declaration would still not be sufficient to overcome the rejection of claims 4-28 over JP '913 in view of Soma. In the latter rejection, Soma is not relied upon for its teachings of a process; it is only relied upon for its teachings of material compositions. The primary reference, JP '913, teaches the co-sintering (integrally burning) step that is recited in the claims. Therefore, a declaration directed to the process of Soma would not be germane to the process disclosed by the JP '913 reference, and thus, would not overcome the rejection of claims 4-28 over JP '913 in view of Soma.

